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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,320	10/09/2001	Niall R. Lynam	DON04 P-945	2222

28101 7590 06/24/2002

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EXAMINER

LESTER, EVELYN A

ART UNIT PAPER NUMBER

2873

DATE MAILED: 06/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,320

Applicant(s)

LYNAM, NIALL R.

Examiner

Evelyn A. Lester

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 76-357 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 76-357 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: EVELYN A. LESTER

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DETAILED ACTION

1. A telephone call was made on June 19, 2002 by the Examiner to the Applicant's representative, Donald S. Gardner, reg.no. 25,975, which resulted in no selection of claims.

Therefore, the following rejection is formally made.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 76-357 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In view of the nature and scope of the Applicant's invention, claims 76-357 are unduly multiplied which confuses the scope and understanding of the claimed invention. This application is an eleventh generation case, and with the exception of the originally filed application, all of the previous generation cases have been patented. The large degree of repetition and multiplicity is quite evident in an additional 282 claims of an eleventh generation case. In filing so many claims, there is presented a major burden on the Examiner to not only read through and examine all the new claims (i.e. determining if 35 U.S.C. 112 has been met, as well as possible prior art rejections), but also to review and check the previous ten generations of cases, with a special

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emphasis on possible obviousness-type double patenting. Therefore, claims 76-357 are rejected as being unduly multiplied.

A reasonable number of claims sufficient to properly define the Applicant's invention should not exceed the number of originally filed claims, i.e. 75 claims. This will provide more than enough latitude to the Applicant for claiming their invention. Please note MPEP 2173.05(n).

Applicant's Reply

3. The Applicant's reply to this rejection, must either:

(A) Reduce the number of claims presented to a number not exceeding the number of claims specified by the Examiner, which would thus overcome the rejection based upon the ground of multiplicity, or

(B) In the event of a traverse of said rejection, the Applicant, besides specifically pointing out the supposed errors of the multiplicity rejection, is required to select certain claims for purpose of examination, the number which is not greater than the number specified by the Examiner.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to E.A. Lester whose telephone number is (703) 308-4943. The examiner can

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normally be reached on Monday-Friday from about 9:30 am to 6 pm (subject to an extended flex schedule).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps, can be reached on (703) 308-4883. The fax number for Technology Center 2800 is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Evelyn A. Lester
Primary Examiner
AU 2873
June 20, 2002